



# **USACE Defense Base Act Insurance Program**

## **Worker Compensation Insurance Program Rules and Regulations**

**Lynn M. Harper**

USACE DBA SME  
PARC-WIN Procurement Analyst



## Overview

- What is DBA Insurance
- When DBA Insurance is Required
- Background/History
- PARC Instruction Letter
- Contracting Officer's Responsibilities
- Points of Contact



# DBA Insurance

- What is DBA Insurance?
  - Congressionally mandated workers compensation insurance effective since 1941
    - 42 U.S.C. Sections 1651-1654, as amended
    - OSD issued guidance in December 2003
- It's the Law
  - Contractors **MUST** buy DBA insurance for its employees working outside the 50 states.
    - Unless under a self-insurance program approved by DOL or subject to a waiver (see



# When is it Required?

- For Contractors and Subcontractors unless waived by DOL
- DOL Policy Letter for DoD is forthcoming –
  - ▣ Changes/Clarifications in Waivers
- A waiver can be requested from DOL
  - ▣ IAW FAR 28.305
- No waiver if:
  - Hired in the US
  - ▣ Resident of the US
  - ▣ Citizen of the US
  - ▣ If no Local Compensation Law Exists in Country



## Country Waivers

Belgium

Germany

Japan

Oman

United Arab Emirates

Saudi Arabia

Bahama Island

Kazakhstan

Italy

- South America
- Honduras
- El Salvador
- Qatar
- Botswana
- South Korea
- Territory of Guam
- Israel
- American Somoa



# DBA Insurance

- The USACE-wide contract was awarded to Continental Insurance Company (CNA)
- CNA must be utilized whenever the contractor either obtains new DBA insurance or renews its existing DBA insurance
  - ▣ Why? Because this is a requirements contract
  - ▣ New Contract includes JCC-IA
  - ▣ Can't accept coverage from another insurance carrier
  - ▣ Otherwise, Government will be in breach of its contract with CNA, and can be sued for damages by CNA



## Background/History

- Why does the USACE Program exist?
  - After 9/11 insurance costs became unaffordable for many companies, as much as \$150 per \$100 Compensation
  - Needed to find a way to help companies follow the DBA law
- Contract Information
  - In Third Year of Program (Since October 2005)
    - 1 October 2008 through 30 September 2009
    - One 12-mo Option Period – flexible rate schedule
  - The Fixed rates are currently:
    - Services \$4.00 per \$100 Compensation
    - Construction \$7.50 per \$100 Compensation
    - Security \$12.50 per \$100 Compensation



## Definition of Labor Categories

**SERVICE:** \$4.00/\$100 “White collar” workers such as IT Consultants, Engineers, Administrative type Office workers and light housekeeping, Security Consultants could be included as long as they are just assessing risk and not providing armed protection.

**CONSTRUCTION:** \$7.50/\$100 “Blue collar” workers providing Construction services such as Carpentry, Electrical, Plumbing, Concrete, Asphalt, Day Laborers, Operation and Maintenance of Heavy Equipment

**SECURITY:** \$12.50/\$100 Personal Security Detail (PSD) and Static or Convoy Guarding property of Personnel

**AVIATION:** \$20.00/\$100 Pilot and Crew of any aircraft excluding ground personnel who provide maintenance or services but stay on the ground





# PARC Instruction Letter

- New List of Country Waivers
- USACE and JCC-IA Contractors & Subs
- Pre-Award and Post-Award Responsibilities
  - ❑ Special Solicitation and Contract Requirements
  - ❑ When to Allow Performance (NTP)
  - ❑ Separately Price the DBA CLIN – Only Pay Actual based on Copy of “Paid Premium Invoice”
- Oversight and Accountability
  - ❑ Leadership Responsibility
  - ❑ Contracting Officer Responsibility
  - ❑ Appoint Regional COR's



## Separately Priced CLIN

- Not a Fixed Price CLIN
- Revision to PIL
- **SAMPLE LANGUAGE:**

DBA Insurance \_\_\_\_\_

The amount listed by the offeror on this CLIN is the estimated DBA insurance premium (estimated payroll of the offeror and its subcontractors times the applicable rate(s)). The DBA insurance premium amount varies with payroll and the nature of services and will, therefore, be taken into account during price evaluation of offers. The actual amount paid by the government under this CLIN will be based on the amount CNA invoice submitted by the offeror after contract award. In the event of recalculation of the premium by CNA based on actual payroll amounts, the contracting officer will adjust this CLIN by contract modification to reflect actual premium amounts.



## Contracting Officer's Responsibilities

### PRE AWARD:

- Special Solicitation and Contract Requirements
  - ❑ Refer to PIL 2009-01 (Encl 1 & 2)
  - ❑ Section for Solicitations
  - ❑ Section for Awards
- Make sure the Offerors are aware and cost it
  - ❑ Discussions/Negotiations or Pre-Bid Conferences
  - ❑ Applications for DBA Insurance aren't needed until Award
- Ensure that the Contractor and its Subs



## Contracting Officer's Responsibilities

### POST AWARD:

- Verify valid policy for Prime and Subs before issuing the NTP
- Ensure that the Contractor and its Subcontractors **maintain** DBA coverage *with **CNA***
- Get a copy of the paid Invoice from the Contractor within 30 days
  - before progress payments are made
    - Do not pay DBA Insurance Premium without proof (Paid Invoice)
- If a contractor fails to maintain coverage
  - Issue a Stop Work Order
  - Withhold progress payments
  - Issue Cure Notice
  - Terminate the contract for default
  - Poor past performance – CPARS, ACASS, CCASS



## Points of Contact

- USACE DBA Subject Matter Expert
  - ▣ Procurement Analyst PARC-WIN:
    - ▣ Lynn Harper (540) 665-3998 [lynn.harper@us.army.mil](mailto:lynn.harper@us.army.mil)
- USACE Contracting Officer - HECSA
  - ▣ Susan Stewart (703) 438-8487  
[susan.m.stewart@usace.army.mil](mailto:susan.m.stewart@usace.army.mil)
- Department of Labor
  - ▣ Miranda Chiu (202) 761-7169 [Chiu.miranda@dol.gov](mailto:Chiu.miranda@dol.gov)
  - ▣ Waiver Questions
    - ▣ John Chamberlain (202) 693-0925  
[Chamberlain.john@dol.gov](mailto:Chamberlain.john@dol.gov)



## LIST OF CORS

- Eileen Lodge (TAC) GRD & AED
- Diane Bublak (TAC) TAC
- Michael Duffy (HNC) HNC
- Lynn Arakaki (POH) PARC-DAL
- Denise Diaz (NAU) PARC-ATL



# Theater Business Clearance

**What?**



**Why?**

**Details....**







# JCC-I/A Acquisition Instruction Mandatory Language

DFARS Deviation 2007-00010, Contractor  
Personnel in U.S. Central Command Area of  
Responsibility

